

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

**TERRY FOSTER and
JANIE BREWER**

PLAINTIFFS

v.

No. 3:20-cv-222-DPM

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 1516, et
al.**

DEFENDANTS

ORDER

Foster and Brewer have sued IBEW Local 1516 and various Union officers and officials. They allege unfair labor practices. Foster says the Union retaliated against him for decades because he worked at non-Union sites. He also says the Union jumped the books, depriving him of work, and eventually kicked him out without adequate process. Brewer was denied a Union card. Both have filed charges with the NLRB. They move the Court to approve their complaint under 29 U.S.C. § 501.

The motion is denied for two reasons. First, the complaint does not allege the kinds of financial improprieties proscribed by § 501(a). *Compare Gould v. Bond*, 2019 WL 3890776, at *2 (E.D. Mo. Aug. 19, 2019). The Court declines to hold that § 501 reaches the kind of conduct alleged here. Second, while there is no binding precedent in this circuit, this Court agrees that this statute creates an analog to a shareholder

derivative action. *E.g., International Union of Operating Engineers, Local 150, AFL-CIO v. Ward*, 563 F.3d 276, 279–80 (7th Cir. 2009). Foster and Brewer have not adequately alleged that they sought relief from Local 1516’s executive board, but were unsuccessful, or that a majority of the board could not make an independent and disinterested judgment. Further, and again, this dispute does not appear to be about the alleged mishandling of Union money or property for the personal benefit of Union officers or employees. In the statute’s phrase, Foster and Brewer haven’t shown “good cause” for pursuing their case outside the usual administrative process. 29 U.S.C. § 501(b).

Motion, *Doc. 1*, denied. The complaint will be dismissed for lack of subject matter jurisdiction.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

16 September 2020